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EXAMINER

PATEL, JAGDISH

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 01/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/488,107

Applicant(s)

FRISS ET AL.

Examiner

JAGDISH N PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 34-38, 41, 43-52, 54-57 and 59-141 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-38, 41, 43-52, 54-57 and 59-141 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. This communication is in response to amendment filed 10/16/2002.

#### ***Response to Amendment***

2. claims 33 and 58 have been canceled per request. New claims 71-141 have been added. Consequently, claims 34-38, 41, 43-52, 54-57 and 59-141 are pending and have been examined.

3. The pending claims have been rejected on the new ground of rejection as discussed in the following paragraphs.

4. Applicant's Remarks concerning amended claim have been reviewed. In particular, the amendments that render claims in technological art for compliance with 35 USC section 101 requirements have been noted. Additionally, 35 USC 112 rejections have been overcome by the amendment of appropriate claim. As per, the remarks about applicability of "the stock exchange reference" is rendered moot in view of the new ground of rejections.

5. Allowance of claims 62-69 have been withdrawn. These claims are rejected under 35 U.S.C. 103(a).

6. This office action is a non-final office action.

#### ***Claim Objections***

7. Claim 46 is recited as being dependent on claim 33, which has been canceled. Claim 46 is examined as depending on claim 72.

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### *Specification*

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to support the subject matter set forth in the claims 62-69 and 108-114.. The specification, as originally filed does not provide support for the invention as now claimed.

The test to be applied under the written description portion of 35 U.S.C. § 112, first paragraph, is whether the disclosure of the application as originally filed reasonably conveys to the artisan that the inventor had possession at that time of later claimed subject matter. Vas-Cat, Inc. v. Mahurkar, 935 F. 2d 1555, 1565, 19 USPQ2d 111, 1118 (Fed. Cir. 1991), reh'rg denied (Fed. Cir. July 8, 1991) and reh'rg, en banc, denied (Fed. Cir. July 29, 1991).

The specification is objected to not provide support for the invention as recited in claims 62-69 and 108-114.

As an example, Claim 62 recites limitation  
"communicating..message prompting each purchasers to effect  
selected of the following: i) to keep their ..collectibles in the  
protective environment ii) offer for sale on the secondary  
market.., and iii) forward the identified collectibles  
..purchasers.

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However, the specification fails to teach the communication message as recited. The specification on p. 13 L 1-20 discloses the following "notices are transmitted in step 126, typically via the Internet, to each of the successful purchasers informing them that they had winning orders and the number of cards 40 allocated to each. ..further, these notices also inform the purchasers of their options to have the awarded cards 40 sent to them or, at their choice, to escrow the purchased cards 40 with the purchasing administrator or another escrow agent."

However, the specification is lacking any recitation of message(s) that provide choices as recited in the claims identified above. In particular, the choices i) and ii) are contained in the "notices" transmitted to the purchasers.

This exemplary analysis also applies to dependent claims 63-68 and independent claim 69.

Similarly the specification lack teaching of communicating a message giving the selected purchaser the choice to maintain the condition of the collectible by placing it either in the protective casing or the benign environment as per claims 108 and 109.

Similarly the specification lack teaching of storing the predetermined condition of the collectibles as required in claims 110-114.

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***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claims 62-69 and 108-114 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, claims 62-69 and 108-114 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 37 and 38 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

14. Claims 37 and 38 recite the limitation "said secondary market" in line 2 of claim 37. There is insufficient antecedent

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basis for this limitation in the claim. It is assumed that claim 37 depends on claim 34.

### ***Claim Rejections - 35 USC § 102***

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 119-141, 49-52 and 54-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Woolston.

Claim 119. (Woolston teaches a method of managing the sale of collectibles on each of a primary market and a secondary market, each of the collectibles being of a predetermined condition (col. 3 L 61-66), said method comprising the steps of:

a) offering the collectibles of given conditions for sale on the primary market to potential purchasers (refer to claim 77 a));

b) facilitating one or more original purchasers to purchase the collectibles of given conditions on the primary market and to offer to a subsequent purchaser at least one purchased collectible of a given condition on the secondary market (col. 12, L 59-66 Re-post the collectible and col. 3 L 25-41); and

c) facilitating one or more original or subsequent purchasers to offer for sale on the secondary market one or more sold collectibles to one or more original or subsequent purchasers (col. 3 L 25-41 plurality of participants buying and selling collectibles...),

said steps a) - c) being implemented by a programmed computer (analyzed as in claim 77).

Claim 120. (New) a step of determining the predetermined condition of each of the collectibles on sale on the primary market (col. 3 L 61-66).

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121 and 122. further including the step of maintaining the predetermined condition of the collectibles at a source thereof in a benign environment and

wherein the step of maintaining keeps the collectibles offered for sale on the source in the primary and secondary markets at the predetermined condition.

(col. 17 L 66- col. 18 L 5, long term storage facility).

Claim 123. Woolston teaches a method of managing a sale of at least one collectible to at least one original purchaser on a primary market, a resale of the one sold collectible to at least one subsequent purchaser on a secondary market, and keeping track of these sale and resale of the one collectible respectively to the one original purchaser and to the one subsequent purchaser on a data base, (refer to analysis of prior claims 77-95) said method comprising the steps of

a) responding to the sale on the primary market of the one sold collectible to the one original purchaser to create a record in the data base for receiving data identifying the one sold collectible and the one original purchaser who owns the one collectible (refer to Fig. 12 , "sold" and "fore sale" database), col. 14 L 57-63);

b) responding to the resale on the secondary market of the one resold collectible to the one subsequent purchaser to create a record in the data base for receiving data identifying the one subsequent purchaser of the one resold collectible; and

c) said steps a) and b) being implemented by a programmed computer (refer to Fig. 12 , "sold" and "fore sale" database), col. 14 L 57-63);

Claim 124. wherein the sale of the one collectible includes the offering of collectibles to potential purchasers and receiving orders from the ordering potential purchasers, and said step a) responds to the receiving of each of the orders of potential purchasers to create a record in the data base for receiving data identifying one of the potential purchasers (refer to Fig. 12 , "sold" and "fore sale" database), col. 14 L 57-63);



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Claim 125-128. further including a step of maintaining the condition of the one collectible (refer to claim 71 step c) and claims 104-107 analysis).

Claim 129. further including a step of receiving and responding to a request of the original purchaser to forward the one sold collectible and to encapsulate the one sold collectible, whereby the condition of the forwarded one collectible is maintained (col. 12 L 59-66 and col. 18 L 1-5, long term storage).

Claim 130. further including a step of receiving and responding to a request of the subsequent purchaser to forward the one resold collectible to the subsequent purchaser and to encapsulate the one resold collectible, whereby the condition of the forwarded one collectible is maintained (col. 12 L 56-59, participant elects to ship goods).

Claim 131. Woolston teaches a method of managing the initial offering for sale of collectibles, the method comprising the steps of:

steps a) -c) have been discussed in claims 71, 73 and 77.

d) provide each successful purchaser the option to remove its collectibles, in the same predetermined condition, from the protective environment or to continue to keep the collectibles in the protective environment (col. 12 L 55-66);

at least said steps b) - d) being implemented at least in part by a programmed computer (discussed before).

Claim 132. wherein if a successful purchaser opts to remove its collectibles, the collectibles to be removed are disposed in a protective housing (inherent to shipment of collectibles, step 414, Fig. 414).

Claim 133. Woolston teaches a method of facilitating an issuer of collectibles to manage the sale of at least one collectible from a first purchaser to a second purchaser, said method comprising the steps of

a) - c), e) and f) refer to analysis of claims 110 and 115

d) transferring the ownership of the one collectible from the first purchaser to the second purchaser by deleting the one collectible from the first record and adding the one collectible to the second record (col. 18 L 63 - col. 19 L 15, transferring legal title);

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Claim 134. wherein step f) keeps the one collectible in the benign environment during at least steps b), c) and d) (long term storage facility, col. 17 L 2- col. 18 L 5).

Claim 135. (New) wherein step d) further transfers the ownership of the one sold collectible from the second purchaser to a third purchaser, and step c) further constructs the data base with a third record for the third purchaser transfer of ownership of goods, Fig. 9, col. 18 L 63 - col. 19 L 15, transferring legal title).

Claim 136. wherein step d) further transfers the ownership of the one collectible from the second purchaser to the third purchaser by deleting the one collectible from the second record and adding the one collectible to the third record (transfer of ownership of goods, Fig. 9, col. 18 L 63 - col. 19 L 15, transferring legal title)

Claim 137. Woolston teaches a method of facilitating at least one administrator to manage the sale of at least one collectible to at least first and second purchasers on a primary market and a secondary market respectively (consignment node acts as the administrator, Fig. 8 and 9 and relevant description) refer to analysis of claims 71, 73, 77, 96 and 115 as discussed above).

Claims 138 and 139. (wherein step f) of maintaining the condition comprises the step of keeping the one collectible in a benign environment, encapsulating the one collectible in a protective housing (inherent to long term storage as discussed previously).

Claims 140. wherein there is a second administrator, the second administrator having a secondary market, and there is further included the step of determining whether the protective housing has been tampered with and, if not, facilitating the second administrator to offer the one collectible of the determined condition for sale on the secondary market of the second administrator (col. 3 L 36-41, "trusted means").

Claims 141. wherein the one administrator continues to guarantee the condition of the one collectible as long as the protective housing remains in tact (customary business practice).

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Claim 49. Woolston teaches a method of operating a server (computer 10, Fig. 1) to receive over a network at least one order for collectibles from at least one of a plurality of potential purchasers, said server being programmed to implement said method comprising the steps of.

- a) providing at the server a purchaser history database (purchase records, col. 7 L 12-21);
- b) offering for sale an initial placement of a predetermined number of collectibles (col. 5 L 30-41, note that each participant may choose to post new record as per col. 9 L 63-65);
- c) receiving from one of the potential purchasers at least one order for a selected number of collectibles (refer to claim 71 b) analysis)
- d) creating in response to the received one order an account in the purchaser history database for its potential purchaser, each account including a record of the purchasing activity of its potential purchaser (inherent to sold database 816, shipped database 820 col. 19 L 36-46).

Claim 50. refer to claim 34 analysis.

Claim 51. refer to claim 48 analysis.

Claims 52. both number of received orders and incrementing number of orders in response to receipt of each order are inherent and necessary steps for maintaining accurate and useful purchase history for each customer (participant)

Claims 54 and 55. refer to claim 43 analysis.

Claims 56. updating record of the purchaser ..data indicative of the of the purchaser's allocated collectibles (refer to Fig. 12 , "sold" and "fore sale" database and col. 14 L 57-63).

Claim 57. receiving bids form purchasers during said secondary offering..determining winning bids (refer to discussion of auction as discussed in col. 5 L 46 - end of col. 6).

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Claim 58. canceled.

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 71, 72, 34-38, 41, 43-48, 73-107, 59-61, 110-118 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woolston (US 5,845,265) and further in view of admitted prior art.

Claim 71: Woolston teaches a method of facilitating an issuer of collectibles for sale, each collectibles having a predetermined condition ("computerized market", abstract), said method comprising steps of:

a) initially offering for sale the collectibles to potential purchasers for a period of time set by the issuer (per Woolston, offering of collectibles is communicated by a consignment node to potential purchasers col. 2 electronic markets for collectible goods);

b) receiving orders from the ordering purchasers (...allow participant to electronically purchase goods from a consignment node...col. 3 L 25-30).

Steps a), b) and c) as discussed below are computerized.

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(refer to Fig. 1) of Woolston.

Woolston teaches step d) maintaining condition of the collectibles .. (col. 17 L 60 - col. 18 L 5, ..hold the good for a predetermined time and/or ship the good to a long term storage faculty).

Whereas Woolston teaches communicating an initial offering of a predetermined number of collectibles (as inherently disclosed since goods offered by the consignment node are collectible goods available in limited quantity) and receiving orders from the ordering purchasers (as inherent in "participant to electronically purchasing goods"), it fails to teach step c) allocating the offered collectibles among selected of the ordering potential customers.

This missing feature of allocating items is well known practice in commerce in that in merchandising between a dealer who sells a collectibles or goods produced and/or available in limited supply, the dealer or merchant having a limited supply of a product takes order from prospective purchasers not knowing the quantity of product ordered from the purchasers (example, a new model of automobile, toys or electronic game machine etc.).

As an example, discussed in the Background of the Invention of the instant application, in the course of an initial public offering (IPO) of securities often due to the demand for the security, a purchaser is not allocated the requested number of securities. Rather, the broker, in an attempt to satisfy as many of his/her clients as possible, reduces the number of stocks and allocates them in accordance with the well-known algorithm, i.e., rewarding his/her best

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clients with the most shares. Woolston teaches a method to trade collectibles in a similar manner through an organized market place for speculation on the price of the collectibles (abstract and col. 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement the allocation step in Woolston such that the collectibles are allocated according to teaching of the IPO offering (IPO) because it would allow the seller to fairly distribute the limited supply of collectibles and reward certain preferred customers thereby increasing the perception of fairness.

Claim 72. refer to discussion of allocation of collectibles above.

Claim 34. wherein step b) offers an initial offering of collectibles, and there is further included the step of offering for sale selected of the allocated collectibles on a secondary market at the direction of the purchasers of the allocated collectibles (col. 12 L 56-66, post a new offer).

Claim 35. Wherein the collectibles comprise trading cards (collectibles include trading cards).

Claims 36-38. wherein said offering of step b) is carried out for a first selected, predetermined period of time, said secondary market is carried out for a second selected period of time, said second period of time is greater than said first period of time (the first and second predetermined period of time may be set by the operators of the consignment node (administrators) per their choice).

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Claims 39-40 and 42 have been canceled.

Claim 41 and 43. wherein if said total number of collectibles exceed the predetermined number of collectibles, said step of allocating reduces the number of collectibles to be allocated to selected of the ordering purchasers in accordance with a predefined algorithm which includes direct function of the magnitude of purchaser activity (refer to analysis of claim 71).

Claim 44 and 45. wherein there is further included the step of providing lots of the collectibles for offering for sale (lots of collectibles are not patentably distinguishable from collectibles).

Claim 46. wherein the successful purchasers of collectibles on a primary market may use a sale administrator...(Woolston, col. 3 L 36-51 and col. 5 L 30-34)

Claim 47 and 48. wherein there is further included the steps of providing a purchaser history database for keeping a record of each purchaser that has placed an order in the course of said initial offering of the collectibles for sale, and updating data indicative of each collectible held in escrow in that record of the purchaser holding the escrowed collectible (bailee relationship as discussed in col. 17 L 60 - col. 18 L 5).

19. Claim 73. Woolston teaches a server (Figure 1, computer 10) designed to support an initial offering by an issuer of collectibles of a limited number of the collectibles via a plurality of remote terminals, each remote terminal operable by a potential purchaser (participant terminals 28) to transmit

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over a network to said server at least one order for the purchase of collectibles being offered for sale (electronic markets for collectibles, col. 2 L 32-36), said server having a memory and being programmed to:

a) store in said memory an indication of the predetermined condition of each of, the price of each of and the limited number of the collectibles (data record for the good for sale (col. 9 L 65- col. 10 L 2) include information on a good or collectible which inherently include condition of a collectible, since condition of a collectible is essential to a potential purchaser);

b) transmit to the plurality of remote terminals at least one offer for sale of the limited number of collectibles, the one offer having an indication of the predetermined condition of the one collectible, whereby at least first and second potential purchasers are enabled to actuate its remote terminal to transmit at least first and second orders for the one collectible to said server (data record for the good, inherently include "condition" of the collectible, potential purchasers are participants 28, col. 13 L 45-57); and

whereas Woolston teaches step c) to the extent that it creates a record in said memory for the successful purchaser (col. 19, database server 806 .. structured to for-sale database 814 and sold database 816), Woolston, however, fails to teach a process to allocate at least one of the limited number of collectibles among selected of the first and second potential purchasers as a part of this process step.

This missing feature of allocating items is well known practice in commerce in that in merchandising between a dealer who sells a collectibles or goods produced and/or available in limited supply, the dealer or merchant having a limited supply of a product takes order from prospective purchasers not knowing the quantity of product ordered from the purchasers (example, a new model of automobile, toys or electronic game machine etc.).

As an example, as discussed previously, in the course of an initial public offering (IPO) of securities often due to



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the demand for the security, a purchaser is not allocated the requested number of securities. Rather, the broker, in an attempt to satisfy as many of his/her clients as possible, reduces the number of stocks and allocates them in accordance with the well-known algorithm, i.e., rewarding his/her best clients with the most shares. Woolston teaches a method to trade collectibles in a similar manner through an organized market place for speculation on the price of the collectibles (abstract and col. 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement the allocation step in Woolston such that the collectibles are allocated according to teaching of the IPO offering (IPO) because it would allow the seller to fairly distribute the limited supply of collectibles and reward certain preferred customers thereby increasing the perception of fairness.

Claims 74-76. (New) wherein the collectibles comprise trading cards; ..in mint condition; uncalculated trading cards (Woolston collectibles, col. 2 L 30-35 "Collectible goods").

Claims 59 and 60. wherein said server is programmed to respond to each order received from one of the purchasers to update said record of the one purchaser (inherent to sold database 816, shipped database 820 col. 19 L 36-46), refer to analysis provided in paper 9 for these claims).

Claim 61. refer to analysis of claims 46 and 47.

20. Claim 77. Woolston teaches a method for sale of collectibles of a predetermined condition on a primary market and on a secondary market, said method comprising the steps of.

a) offering for sale to one or more prospective purchasers an initial placement of one or more selected collectibles on the primary market (col. 2 L 19 - end "electronic markets" comprised

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both features primary market when a participant places (post) a good for sale);

c) offering for sale at the direction of the one successful purchaser selected of the allocated collectibles on a secondary market (col. 3 L 25-41 "post a new participant defined offer"; and

d) maintaining the predetermined condition of the collectibles during steps a), b) and c), whereby the allocated collectibles are of the predetermined condition (col. 17 L 66 - col. 18 L 5, "long term storage facility"); and

e) facilitating at least steps a), b) and c) by a programmed computer (Fig.1 depicting the apparatus).

Refer to claim 71 for analysis of "allocating one or more collectibles.."

Claim 78. limiting the number of collectibles of one kind to be offered for sale on the primary market (col. 2 L 19- end, inherent because collectible are always in limited supply).

Claim 79. wherein the collectibles comprise trading cards (inherently collectibles comprise any good of tangible value including trading cards).

Claim 80. said offering for sale on the primary market is carried out for a selected, predetermined period of time (inherent because offering is carried out at least until the collectible is sold).

Claim 81. predetermining said number of collectibles to be offered for sale on the primary market before said step a) of offering for sale on said primary market begins (inherently the participant decides the quantity of collectibles as discussed in col. 2 L 19-36).

Claim 82-85. step of allocating counts the number of collectibles for which orders have been placed, .. compares said number of counted collectibles with said predetermined number of collectibles ... if said counted number of collectibles exceeds said predetermined number of collectibles, said step of allocating reduces the number of collectibles to be allocated in accordance with a predefined

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algorithm, .. said algorithm allocating the number of collectibles to one or more purchasers as a direct function of said purchasing activity of the one purchaser (refer to discussion of allocation in claims 71 and 73).

Claims 86-87. wherein there is further included the step of providing lots of the collectibles for offering for sale on the primary market (lots of collectibles is not patentably distinguishable and is inherently covered by Woolston).

Claim 88. there is further provided the step of enabling the one successful purchaser of collectibles on the primary market to elect to have an offering for sale or to facilitate an administrator to hold its purchased collectibles in escrow (col. 5 L 18-25 and col. 12 L 59-66, "it is understood that the purchasing participant may elect to leave the good at the consignment node or post a new offer..").

Claim 89. wherein the administrator holds the purchased collectibles of the successful purchasers in a benign environment (col. 17 L 66 - col. 18 L 5, "ship the good to a long term storage facility").

Claim 90. wherein the one successful purchaser elects to offer for sale its purchased collectibles on the secondary market (col. 5 L 18-25 and col. 12 L 59-66, it is understood that the purchasing participant may elect to leave the good at the consignment node or post a new offer..).

Claim 91. wherein the enabling step enables the one successful purchaser to request the administrator to deliver the purchased collectibles to the corresponding one successful purchaser (Fig. 7 block 414, "shipping").

Claim 92. there is further included the steps of providing a purchaser history database for keeping a record of each purchaser that has placed an order in the course of said offering for sale on said primary market, and updating data indicative of each collectible and held in escrow in that record of the purchaser holding the escrowed collectible (refer to col. 14 L 57-63, "sold database" and "account

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database" in view of "bailee relationship" discussed at col. 17 L 55- end).

Claim 93. purchaser's orders received in step b) includes a number of the collectibles wanted by the purchaser (inherent to purchase order of goods).

Claim 94. there is further included the step of predefining the number of collectibles before carrying out said step of offering for sale on the primary market (col. 9 L 66- col. 10 L 2 posting 200..to create a data record for new good (collectible)..).

Claim 95. there is further included the step of providing a purchaser history database for keeping a record for each purchaser that has placed an order in the course of said offering for sale on the primary market, and updating for each order data indicative of said number of collectibles in that record of the purchaser placing that order (col. 14 L 57-63, database of goods for sale).

All other limitations of claims 81-85, 94 and 95 are analyzed as in claim 77.

21. Claim 96. Woolston teaches a method of facilitating an issuer of collectibles to manage an initial offering for the sale of a limited number of the collectibles of a predetermined condition, said method implemented by a computer programmed to effect the steps of:

a) storing in a memory the determined condition of and the limited number of the collectibles (condition is stored as description field 956 as shown in Fig. 13, "goods for sale" database, col.14, L 57-63, col. 3 L 61-66, condition of the card);

b) communicating to potential purchasers a message offering to sell the collectibles and specifying the determined condition and the limited number of collectibles offered for sale (refer to col. 4-5 "For Sale");

c) receiving orders from the ordering potential purchasers(refer to col. 4-5 "For Sale" purchase the card...);

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refer to claim 71 analysis for discussion of limitation "allocating ...".

Claims 97 and 98. wherein there is further included the step of creating a record in the memory for each successful purchaser to which collectibles were allocated..., storing the determined condition of the collectibles (sold database col. 14 L 57-63).

Claims 99-101. collectibles comprise trading cards (collectibles).

Claim 102. All limitations have been analyzed as in claim 71.

Claim 103. storing the predetermined condition..in its corresponding record (refer to analysis of claim 73).

22. Claims 104-107. (exemplary analysis provided for claim 104), Woolston, fails to teach explicitly that step c) maintains the condition of the collectibles by placing a plurality of the collectibles in a benign environment.

However, it is asserted that storing collectibles in appropriate places and environment so as to preserve their originality and prevent deterioration of their appearance in any form as well as safekeeping is extremely well known and knowledge of various methods for maintaining collectibles in their most original condition (such temperature and humidity control etc.) is generally available to one of ordinary skill in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Woolston or to combine the reference teachings in order to implement various methods deemed appropriate for maintaining the condition of the collectible.

23. Claims 110. Woolston teaches a server for facilitating an issuer of collectibles to manage an initial offering of the collectibles of a determined condition for sale, said server having a memory and being programmed to:

(REFER TO Fig. 1, computer 10, network, participant terminal 28)

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- a) store the determined condition of the collectibles that are offered for sale (Fig. 13, section 956 "condition", col. 3 L 61-66, condition of the card);
- b) transmit over a network from the server to selected of a plurality of potential purchaser stations an initial offering for a predetermined time of a limited number of the collectibles for sale and bearing an indication of the condition of the collectibles (Fig. 13 represent a typical initial offering when posted by a participant according to col. 9 L 65 - col. 10 L 2);

Refer to previous claims 71-73 for allocation for analysis of "allocation" and "creating record" limitations.

Claim 111. wherein the server is further programmed to facilitate an administrator to maintain at least the limited number of collectibles in the determined condition during the offering for sale of the collectibles, and the message comprises a guarantee made by the administrator that the limited number of collectibles initially offered for sale are of the determined condition indicated by the message (description 956, Fig. 1).

Claim 112. wherein the server is further programmed to store the number of the collectibles allocated to a selected purchaser into the record of that purchaser (refer to Fig. 12 Sold and Shipped database server).

Claim 113. wherein the server is programmed to receive and process commands from the selected purchasers to which at least one collectible was allocated to place its allocated one collectible for sale to other potential purchasers (col. 12 L 59-66, re-post).

Claim 114. wherein the server is programmed to receive a command from the one selected purchaser to which the one collectible was allocated to transmit the allocated collectible to the selected purchaser in a protective case, whereby the condition of the allocated collectible is maintained (inherent to shipment as discussed col. 12 L 56-59).

Claim 115. Woolston teaches a method of facilitating an issuer of collectibles to manage the sale and distribution of at least one collectible from a source to at least one purchaser, said method comprising the steps of

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- a) offering the one collectible of a predetermined condition for sale (refer to claim 71 limitation a));
- b) effecting the sale of the one collectible of the determined condition to the one purchaser (refer to claim 77 limitations a) and b));
- c) and f) receiving a request of the one purchaser to distribute from the source its one sold collectible and responding to the request by encapsulating the one sold collectible, whereby the determined condition of the one sold collectible is continued to be maintained (col. 12 L 56-59, the participant elects to ship goods., encapsulating is a choice of the seller for shipping);
- d) maintaining the predetermined condition of the one collectible at least during steps a) and b) until the one collectible is encapsulated, whereby the issuer is enabled to guarantee the condition of the encapsulated collectible (inherent feature of Woolston because the issuer is a reputable entity, it is a well known practice to enabled to guarantee the condition of the collectibles) ;
- e) said steps a) - c) being implemented by a programmed computer (discussed in previous claims analysis).

Claim 116. wherein the step d) of maintaining keeps the plurality of collectibles at the source in a protective environment, whereby their conditions are maintained (long term storage, col. 17 L 60 - col. 18 L 5).

Claim 117. wherein the request of the one purchaser alternatively directs that the one sold collectible be distributed from the source to the one purchaser or the sold collectible is kept in its determined condition at the source (col. 12 L 59-66, leave the good at the consignment node).

Claim 118. further including the step of alternatively maintaining the collectibles at the source in a protective environment after the sale of the one collectible or encapsulating the one collectible after its sale, whereby the plurality of collectibles are maintained at their determined conditions, whether they are kept at the source or distributed to the one purchaser (long term storage, col. 17 L 60 - col. 18 L 5).

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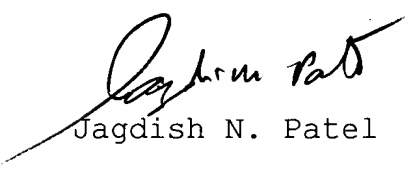
### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1038. The fax number for Formal or Official faxes to Technology Center 3600 is (703) 305-7687. **Draft faxes may be submitted directly to the examiner at (703) 746-5563.**

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113 or 308-1114. Address for hand delivery is 2451 Crystal Drive, Crystal Park 5, 7<sup>th</sup> Floor, Alexandria VA 22202.



Jagdish N. Patel

(Examiner, AU 3624)

1/12/03.